



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 5511-99  
19 November 1999



Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 17 March 1970 for four years at age 18. The record reflects that you served for 25 months without incident. However, during the three month period from April to June 1972 you were convicted by two special courts-martial of five periods of unauthorized absence (UA) totalling about 33 days.

On 22 February 1973 you requested discharge under other than honorable conditions for the good of the service in lieu of trial by court-martial for a 31 day period of UA, from 3 January to 3 February 1973. However, the discharge authority disapproved your request and you were convicted by special court-martial on 29 March 1973 of the foregoing UA. You were sentenced to confinement at hard labor for 45 days, forfeitures of \$200 per month for two months, and a bad conduct discharge. On 8 April 1973 you requested remission of the punitive discharge, but did not desire restoration to duty. On 7 June 1973 you were reported UA and declared a deserter.

The Navy Court of Military Review affirmed the findings and the sentence on 28 June 1973 and clemency was denied on 2 August 1973.

On 21 December 1973 you were convicted by civil authorities of second degree assault and taking a motor vehicle without permission. You were sentenced to a prison term of not more than 10 years on each count.

Your DD Form 214 shows that you were discharged under other than honorable conditions on 12 November 1964 by reason of misconduct due to civil conviction. The discharge processing package is not on file in the record.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been 25 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of three special courts-martial convictions, one of which awarded a bad conduct discharge, and the serious nature of the offenses which resulted in your civil authorities. Absent evidence to the contrary, the Board concluded that your discharge was effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director